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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 ERIC STEPHEN FREEZE,

11 Plaintiff,

12 v.

13 DON MCDERMOTT, et al.,

14 Defendants.

CASE NO. C22-1844JLR

ORDER

15 Before the court is *pro se* Plaintiff Eric Stephen Freeze's motion for judgment on
16 the pleadings pursuant to Federal Rule of Civil Procedure 12(c). (Mot. (Dkt. # 42).) Mr.
17 Freeze asks the court to enter judgment on the pleadings in his favor with respect to his
18 claims against Defendant Jose T. Acuna. (*See generally id.*) Although Mr. Acuna, the
19 only remaining Defendant in this case, has been served, he has not yet appeared. (*See*
20 *generally* Dkt.)

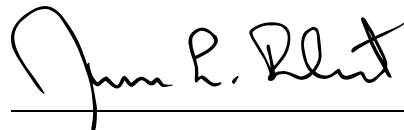
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1 Rule 12(c) motions may not be brought until “the pleadings are closed.” Fed. R.
2 Civ. P. 12(c). Federal Rule of Civil Procedure 7(a) “provides that the pleadings are
3 closed upon the filing of a complaint and an answer.” Wright & Miller, 5C Fed. Prac. &
4 Proc. Civ. § 1367 (3d ed. 2023) (noting that pleadings may close later if a counterclaim,
5 crossclaim, or third-party claim is filed). Accordingly, a court may not grant a Rule 12(c)
6 motion where the defendant has not yet answered the complaint. *See Carmen v. San*
7 *Francisco Unified Sch. Dist.*, 982 F. Supp. 1396, 1401 (N.D. Cal. 1997), *aff’d*, 237 F.3d
8 1026 (9th Cir. 2001); *Stands Over Bull v. Bureau of Indian Affs.*, 442 F. Supp. 360, 367
9 (D. Mont. 1977) (“When a defendant has failed to file an answer, a motion for judgment
10 on the pleadings is not the correct procedural remedy. . . . Judgment on the pleadings
11 under Rule 12(c) is available only when the pleadings are closed.” (citation omitted)).

12 Because Mr. Acuna has not yet answered Mr. Freeze’s complaint, the pleadings
13 are not closed and Mr. Freeze cannot seek judgment on the pleadings under Rule 12(c).
14 Accordingly, the court DENIES Mr. Freeze’s motion for judgment on the pleadings (Dkt.
15 # 42).

16 Dated this 29th day of June, 2023.

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19 JAMES L. ROBART
20 United States District Judge
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